IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3053 OF 2005
WITH
CRIMINAL WRIT PETITION NO. 3054 OF 2005

Vijay Narayan Patil ..Petitioner

versus

State of Maharashtra ..Respondents

Ms. D. M. Shah, Advocate appointed for the Petitioner.

Mr. V. B. Konde-Deshmukh, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &
S. A. BOBDE,JJ.

DATE : 19TH JUNE, 2006

ORAL ORDER :

1. Heard learned advocate for the petitioner and learned APP for the State.

2. Both these petitions are filed by the convict, through jail. We have appointed Ms. D. M. Shah, Advocate, to represent him. On two occasions, petitioner was granted parole or furlough. He did not surrender within time. On the first occasion he was brought back after arresting

him after 14 days of the period of furlough , and, on the second occasion he was arrested and brought after 366 days. Therefore, punishment was imposed upon him after giving show cause notice to him. Accordingly, four days punishment for one day’s absence, total 366 days absence x 4 days = 1464 days was imposed upon him. That proposal was sent to District and Sessions Judge, Kolhapur. The District and Sessions Judge, Kolhapur, did not found that the explanation given by the petitioner about the illness of his mother and consequent inability to surrender in time, as satisfactory. However, the District and Sessions Judge, Kolhapur, reduced sentence from 4 days for one day to 2 days for one day. This order of the District Judge is challenged by the petitioner in these petitions.

3. The only submission that was made by the Advocate for the petitioner was that even the punishment imposed by the District and Sessions Judge, Kolhapur, was harsh and disproportionate. She contended that the petitioner had given his explanation for the delay on his part in surrendering, and, therefore the punishment should be reduced further.

4. On the other hand, learned APP pointed out that on the first occasion there was delay of 14 days in surrendering. About that delay of 14 days, no satisfactory explanation could be given. As regards second delay of 366 days, the explanation was illness of his mother. Initially, 30 days parole was granted to the petitioner, the period was again extended by about 20 days but even then the petitioner did not surrender on the due date i.e. 16.11.2003 and therefore he was arrested and brought to the jail. Therefore, according to the learned APP punishment imposed by the District and Sessions Judge, Kolhapur, is just and proper, in the circumstances, and, no further reduction is called for.

5. We have given our anxious consideration to the submissions made by both the Advocates. It is true that at the time of parole from 5.5.2003 to 18.5.2003 the petitioner surrendered on his own accord after 14 days but when he was released on parole subsequently, the very release was on account of the illness of his wife. Earlier parole of 30 days was granted then that was extended by 20 days

but even thereafter the petitioner did not surrender on his own accord and he had to be arrested and brought to the prison. Therefore, in the circumstances, the punishment imposed by the Sessions Judge, Kolhapur, is proper. No interference is called for. Both the petitions are dismissed.

6. Office to intimate this order to the concerned jail authorities.

(D.G. DESHPANDE, J.)

(S.A. BOBDE, J.)